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ATTORNEY FOR DEBTORS;  
RONALD AND ARLENE SILVER

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF ARIZONA**

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| <b>In Re:</b><br><b>RONALD AND ARLENE SILVER,,</b><br><b>Debtor.</b> | <b>Chapter 11</b><br><b>Case No. 2:17-bk-07624-SHG</b> |
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**DEBTORS' DISCLOSURE STATEMENT FOR FIRST AMENDED PLAN OF  
REORGANIZATION DATED JUNE 8, 2018**

**I. INTRODUCTION**

Ronald and Arlene Silver, Debtors and debtor-in-possession in the above-captioned Chapter 11 bankruptcy case ("Silvers" or "Debtor") hereby submit to the Court and creditors of the Debtors' estate, the following Debtors' Disclosure Statement for Plan of Reorganization dated April 9, 2018 (the "Disclosure Statement"). This Disclosure Statement is submitted pursuant to 11 U.S.C. § 1125.

11 U.S.C. § 1125(b) prohibits the solicitation of acceptances or rejections of a Plan of Reorganization unless such Plan is accompanied by a copy of the Disclosure Statement which has been approved by the Bankruptcy Court.

The purpose of this Disclosure Statement is to provide creditors and interested parties in these bankruptcy proceedings with such information as may reasonably be deemed sufficient to allow creditors and interested parties to make an informed decision regarding the Debtors' First Amended Plan of Reorganization dated June 8, 2018 (the "Plan").

Unless otherwise noted, those portions of the Plan and this Disclosure Statement

1 providing factual information concerning the Debtors, their assets and liabilities, have been  
2 prepared from information submitted by the Debtors and their retained professionals. The  
3 Debtors and other professionals employed by the Debtors have utilized all relevant, non-  
4 privileged information provided by the Debtors in preparing this Disclosure Statement and  
5 the Plan.

6 This Disclosure Statement contains information that may influence your decision to  
7 accept or reject the Debtors' proposed Plan. Please read this document with care.

8 The financial information contained in this Disclosure Statement has not been  
9 subjected to an audit by an independent certified public accountant. For that reason, the  
10 Debtors are not able to warrant or represent that the information contained in this Disclosure  
11 Statement is without any inaccuracy. To the extent practicable, the information has been  
12 prepared from the Debtors' financial books and records and great effort by an independent  
13 certified public accountant, Joel Ruben, was utilized to ensure that all such information is  
14 fairly represented.

15 This Disclosure Statement and the Plan will classify all creditors into Classes. The  
16 treatment of each Class of creditors will be set forth in this Disclosure Statement and in the  
17 Plan. You should carefully examine the treatment of the Class to which your Claim will be  
18 assigned.

19 This Disclosure Statement requires approval by the Bankruptcy Court after notice and  
20 a hearing pursuant to 11 U.S.C. § 1125(b). Once approved, the Disclosure Statement will be  
21 distributed with the Debtors' proposed Plan for voting. Approval of the Disclosure Statement  
22 by the Bankruptcy Court does not constitute either certification or approval of the Debtors'  
23 Plan by the Bankruptcy Court or that the Disclosure Statement is without any inaccuracy.

24 The Bankruptcy Court will confirm the Plan if the requirements of Section 1129 of the  
25 Bankruptcy Code are satisfied. The Bankruptcy Court must determine whether the Plan has  
26 been accepted by each impaired Class entitled to vote on the Plan. Impaired Classes entitled  
27 to vote on the Plan are those Classes of claims whose legal, equitable, or contractual rights  
28 are altered, as defined under Section 1124 of the Bankruptcy Code. An impaired Class of

1 claims is deemed to have accepted the Plan if at least two-thirds (2/3) in amount of those  
2 claims who vote and more than one-half (1/2) in number of those claims who vote have  
3 accepted the Plan. An impaired Class of interests is deemed to have accepted the Plan if the  
4 Plan has been accepted by at least two-thirds (2/3) in amount of the allowed interests who  
5 vote on the Plan.

6 Even if each Class of creditors does not accept the Plan, the Plan can be confirmed  
7 under Section 1129(b) of the Bankruptcy Code, so long as one impaired Class of creditors  
8 accepts the Plan. This is referred to as the “cram down” provision of the Bankruptcy Code.  
9 The failure of each Class to accept the Plan could very well result in a conversion of this case  
10 to Chapter 7 or dismissal of the Chapter 11.

11 Only the votes of those creditors or interested parties whose ballots are timely received  
12 will be counted in determining whether a Class has accepted the Plan.

## 13 **II. DEFINITIONS**

14 The definitions set forth in Article I of the Plan apply in this Disclosure Statement  
15 except to the extent other definitions are set forth in this Disclosure Statement.

## 16 **III. THE DEBTORS, BACKGROUND, AND EVENTS PRECIPITATING THE** 17 **CHAPTER 11**

### 18 **A. Background**

19 1. Debtor, the Silvers, are a married couple and senior citizens. The  
20 Debtors own a commercial building within a strip mall located at 2701 W. Glendale Ave.,  
21 Phoenix, AZ 85051 (the “Glendale Building”). It is the principal asset of the Estate. It is an  
22 approximately twelve thousand one hundred and fifty-five (12,155) square foot corner  
23 building located at the intersection of Glendale Avenue and 27th Avenue. As of this date,  
24 two tenants occupy the building with the two leases covering eight thousand one hundred and  
25 fifty-five (8,155) square feet and one thousand three hundred and thirty-three (1,333) square  
26 feet, respectively, rendering the Glendale Building 78% leased and occupied. Approximately  
27 two thousand six hundred and sixty-seven (2,667) remain unoccupied. The unoccupied space  
28 is an end cap that can be leased to one retail tenant or divided in half and leased to two retail

1 tenants. Two leases of \$13,132.69 and \$1,943.18 produce approximately \$15,078 per month  
2 in rental income less mortgage payments of \$8,932.86. It is believed that the fair market  
3 rental value of the vacant 2,667 square feet is \$3,778.25 per month.

4 The Glendale Building is encumbered by a first position deed of trust that secures an  
5 interest only promissory note with a balloon payment due May 1, 2022 in the amount of  
6 approximately \$1,151,926.50 with Ocwen Loan Servicing ("Ocwen") acting as loan servicer.  
7 The fair market value ("FMV") of the Glendale Building is believed to be approximately  
8 \$1,600,000 based upon an offer received prior to the Petition Date. However, based upon  
9 shoddy tax advice received from a prior certified public accountant ("CPA"), the Silvers took  
10 substantial depreciation on their tax returns on the Glendale Building and, if sold, would owe  
11 in excess of \$500,000 in tax liabilities thus rendering the Glendale Building "underwater" for  
12 liquidation purposes. The tax liability is split evenly between the Silvers and, according to  
13 their current CPA, if either one of the Silvers were to pass away then ½ of the tax liability  
14 associated with the Glendale Building would vanish and render the Glendale Building "above  
15 water" thus affording the Silver(s) with an ability to liquidate the Glendale Building, pay off  
16 the Glendale Building's sole secured creditor in full, and have sufficient savings to survive  
17 what is left of the golden years.

18 2. The Debtors own one other commercial building, three residential  
19 investment condos, and a residential home which serves as their primary residence. These  
20 are described as follows:

21 (a) The Hatcher Building. A commercial building located at 503-509  
22 W. Hatcher Rd., Phoenix, AZ 85021 (the "Hatcher Building"). It is approximately three  
23 thousand four hundred (3,400) square feet. As of this date, the Hatcher Building is 100%  
24 leased and occupied and the Hatcher Building almost "pays for itself" meaning that the Silvers  
25 realize a small loss on the Hatcher Building. Capital One Bank ("Capital One") is the loan  
26 servicer for secured creditor Greenpoint Mortgage Funding, Inc. for the Hatcher Building.  
27 Monthly rent is approximately \$2,430 and the monthly mortgage payment is approximately  
28 \$2,522. The amount owed to Capital One is approximately \$265,000 and the FMV is believed

1 to be as high as \$315,000 as of this date. When factoring in expected brokerage fees of 6%,  
2 closing costs, tax consequences and necessary repairs to obtain FMV, a sale of the Hatcher  
3 Building is believed to be about "break even" transaction for the Silvers. The Silvers will  
4 liquidate the Hatcher Building on or around the Effective Date (dependant on the Silvers  
5 receiving a suitable offer) so that they may pay the Hatcher Building's sole secured creditor,  
6 in full, and eliminate the burdensome work associated with acting as property manager for  
7 this building without profit.

8 (b) The Acoma Condos. Three residential condos located at 7009 E.  
9 Acoma Dr., Scottsdale, AZ 85254, units 1040, 1052 and 2093 (collectively, the "Acoma  
10 Condos" and each individually referred to as "Unit 1040", "Unit 1052" and "Unit 2093"  
11 respectively). The Acoma Condos are each in the same complex with the same floor plan  
12 consisting of approximately seven hundred (700) square feet each. As of this date, two of the  
13 Acoma Condos are fully leased and occupied. A tenant was evicted in approximately January,  
14 2018 from Unit 1040 for failure to pay rent. The Court has approved the sale of Unit 1040  
15 (the unoccupied Acoma Condo) which will provide funding for the effectuation of the Plan  
16 with an expected close of escrow date on or about June 16, 2018. The Silvers will liquidate  
17 the other two Acoma Condos as each respective lease expires during the summer of 2018. As  
18 of the Petition Date, the Acoma Condos were believed to not have any equity, however, as  
19 the Silvers have made monthly mortgage payments and as the real estate market has changed,  
20 the Silvers Believe that each condo holds approximately \$30-40,000 of equity after  
21 accounting for brokerage commissions, other closing costs and tax liability.

22 Unit 1040. Approximately \$136,931.07 is owed and secured by a deed of  
23 trust and the Court approved a sale for \$187,000.00. Fair market rental value is believed to  
24 be as high as \$1,300. The Silvers owe 5.5% of the sales price in brokers' commissions, plus  
25 closing costs, and may have to contribute some additional funds (not believed to be greater  
26 than \$3,000) for the purposes of making repairs after the buyers obtain their home inspection  
27 prior to the close of escrow.  
28

Unit 1052. Approximately \$136,573.35 is owed and secured by a deed of trust and FMV is believed to be as in the range of \$180,000 - \$190,000. The unit is currently leased for \$945.00 and the monthly mortgage payment is \$904.39. Liquidation expenses of Unit 1052 will be nearly identical to the liquidation expenses of Unit 1040.

Unit 2093. Approximately \$136,573.35 is owed and secured by a deed of trust and FMV is believed to be in the range of \$170,000 - \$180,000. Unit 2093 is believed to be of lesser value than Units 1040 and 1052 because it is on the second level and a buyer must use a stairwell to gain access. The monthly mortgage payment is \$893.13 and the Unit is currently leased for \$950.00 per month. Liquidation expenses of Unit 2093 will be nearly identical to the liquidation expenses of Unit 1040 with the primary difference being lower commissions owed to real estate brokers due to the anticipated lower sales price.

(c) The Charter Oak Home. A residential home located at 8329 E. Charter Oak Rd., Scottsdale, AZ 85260 ("Charter Oak Home"). The Charter Oak Home is and has been the Silvers' primary residence for over 30 years. Thus, the Charter Oak Home is not leased, but is 100% occupied by the Silvers. The Charter Oak home does not have any equity (or minimal equity) when factoring in real estate commission fees and other liquidation expenses. The Silvers received a loan modification from the sole secured creditor on May 1, 2017 extending the note maturity date to January 1, 2047 with monthly installment payments of \$3,497.71. The Silvers do not expect to live through the maturity date and thus view the monthly installment payments as "rent" payments. The Silvers believe that they can lease a property to live in for far less and preserve financial resources, therefore the Silvers will liquidate Charter Oak. The Silvers will use the sales price to pay the sole secured creditor, in full. In the event that the sales price is insufficient to satisfy the amount owed to the secured creditor, the Silvers will first pursue approval for a "short sale", and if they are unable to obtain approval, the Silvers will allow the secured creditor to enforce its non-judicial foreclosure rights as the Silvers are protected from any deficiency balance that might be owed pursuant to A.R.S. § 33-814.

1           3.     In addition to property rentals, the Silvers receive modest Social Security  
2 income and Ronald Silver works part time at Home Depot which pays him approximately  
3 \$1,500 per month.

4           **B.     Events Leading to Chapter 11**

5           1.     Over the period of approximately 30 years the Silvers slowly acquired  
6 the above referenced properties. The Silvers managed to be successful investment property  
7 owners and survived the recent economic recession of 2008 which provided the worst  
8 economic conditions that the United States, and specifically the Arizona real estate market,  
9 has seen since the Great Depression. Unfortunately, during the real estate “boom” leading up  
10 to the recession, the Silvers acquired the Acoma Condos for inflated “bubble” prices and  
11 refinanced the Glendale Building and Charter Oak Home thus reducing almost all, if not all,  
12 of their equity once real estate prices came back to normal levels with the bubble burst. While  
13 the Silvers managed to survive the recession, they lost significant equity and savings thus  
14 putting them in a “month to month” economic position where they relied upon rents received  
15 to meet their monthly financial obligations with the most significant rental income coming  
16 from the Glendale Building.

17           2.     The Silvers had a long-time tenant, O’Reilly Automotive, in the  
18 Glendale Building for over 20 years. The tenant was reliable. O’Reilly moved out in  
19 approximately 2016 and the Silvers found a new tenant. Unfortunately, the new tenant  
20 vandalized the Glendale Building by making unauthorized alterations without the required  
21 permits (many of them not completed) and then moved out of the Glendale Building without  
22 paying. While vacant, the Glendale Building was further vandalized by unknown parties.  
23 The Silvers have since recovered and have two tenants occupying the Glendale Building,  
24 paying approximately \$13,132.69 and \$1,943.18, respectively.

25           3.     In the period between O’Reilly’s move-out and the Silvers finding  
26 paying tenants they became unable to afford all of their mortgage payments and fell behind  
27 on their mortgages for the Glendale Building and the Charter Oak Home. The Silvers applied  
28 for and were approved for a loan modification for the Charter Oak Home on approximately

February 22, 2017. The Silvers made attempts to catch up with missed payments for the Glendale Building but could not keep up with penalties and interest that were accruing. The Silvers then applied for mortgage assistance on the Glendale Building but were declined and were noticed with a trustee's sale set for July, 2017. The Silvers then filed this Chapter 11 case.

#### **IV BUSINESS PLAN AND PROJECTIONS**

As set forth above, the Glendale Building is the sole source of meaningful income and is essential to rehabilitation and is the sole source of the Debtors retirement funds except for modest social security checks. Debtors will pursue a three-pronged business strategy with regard to the Properties to fund the plan, including: First, the utilization of the two triple-net leases from Glendale Building (currently \$15,078), plus market and lease the vacant space for approximately \$3,778.25, which would yield a projected monthly revenue stream of approximately \$18,800.

Second, the Debtors will liquidate the Acoma Condos, the Hatcher Building, and Charter Oak. The Acoma Condos will provide approximately \$100,000 of equity and the Hatcher Building and Charter Oak will be close to "break even" value or provide minimal equity.

Third, the Debtors will either sell or refinance the Glendale Building by May 1, 2022 to satisfy their balloon payment obligations to Ocwen as loan servicer for secured creditor U.S. Bank, N.A. In the event that one or both of the Silvers pass before that date then the tax implications caused by a sale of the Glendale building will either be cut in half *or* eliminated thus making a sale of the Glendale Building feasible prior to May 1, 2022. Alternatively, if the Silvers' credit is sufficiently rehabilitated to allow them to qualify for a refinance loan prior to May 1, 2022, the Silvers will refinance the Glendale Building thus satisfying the balloon payment owed to Ocwen. In the interim, the Debtors will pay the pre-petition arrearages of approximately \$53,000 to Ocwen through the sale of the Acoma Condos and will satisfy the full pre-petition arrearage balance at a date not later than 30 days from the sale of the third and final Acoma Condo.



1 The Debtors plan on paying U.S. Bank National Association, as Trustee for Lehman  
2 Brothers Small balance Commercial Mortgage Pass-Through Certificates, Series 2007-3  
3 (“US Bank”), for the Glendale Building, in full on its allowed secured claim with interest over  
4 the life of the plan but in any event no later than May 1, 2022.

5 The Debtors will continue all post-petition monthly installment payments to all  
6 secured creditors. Debtors will pay the full allowed secured claims for the sole lien holders  
7 on Charter Oak, the Acoma Condos, and the Hatcher Building through sale of these assets.  
8 Debtors will immediately market and list these properties for sale upon the Effective Date (or  
9 sooner).

10 The Debtors plan on paying the Arizona Department of Revenue (“AZDOR”) in full  
11 on its allowed priority claim of \$938.35 within 30 days of the Effective Date as more fully  
12 described below. Any additional taxes that may be owed on account of post-petition claims  
13 will be paid as accrued by Debtors. The remaining \$80.02 general unsecured claim of  
14 AZDOR will be paid pro-rata with the rest of the unsecured creditors as more fully described  
15 below.

16 The Debtors plan on paying Rein & Grossoehme Commercial Real Estate, LLC  
17 (“RGCRE”) its allowed priority claim of \$12,850 in equal monthly installments of \$2,141.67  
18 for six months beginning 30 days from the Effective Date. The remaining general unsecured  
19 claim of RGCRE in the amount of \$15,904.89 will be paid pro-rata with the rest of the  
20 unsecured creditors as more fully described below.

21 As more thoroughly described below, the Debtors plan to pay the unsecured creditors  
22 in full over the life of the plan as more fully described below.

23 **A. Present Conditions, Operations and Future Management**

24 The present condition of the Debtors thus far has been to pay all of their post-petition  
25 payments to their secured creditors and all necessary expenses through rents received from  
26 their tenants.<sup>1</sup> In order to provide for efficient and productive operations, and to keep the  
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28 <sup>1</sup> Ocwen, as loan servicer for the secured creditor on the Glendale Building, has rejected monthly payments after accepting multiple post-petition monthly payments and now

Debtor's business competitive, the Debtors intend to retain the same management and structure that existed pre-petition, in the current interest holder. Debtor Arlene Silver has over 20 years' experience as a real estate professional and is intimately familiar with the Glendale Property. She will continue to act as property manager. Given Arlene Silver's old age, she will receive assistance from her son, Scott Silver, for issues such as repairs that she is no longer able to perform.

By maintaining its current management and operational structure, the Debtors will avoid the transactional costs associated with significant and unnecessary change. In addition, the institutional knowledge of the management will be preserved.

**B. Accounts Receivable and Outstanding Collateral**

To the extent that an entity or custodian took possession or control of property of the estate during the case or with knowledge of the case, such transfer may be recoverable by the bankruptcy estate for the benefit of the estate under Sections 542 and 543 of the Bankruptcy Code. To date, no custodian has property belonging to the estate. Debtor's sole assets are the above referenced properties. Likewise, there are no outstanding accounts receivable owed to the Debtor.<sup>2</sup>

**C. Preferences and Fraudulent Conveyances**

To the extent that a preference or fraudulent conveyance occurred before the bankruptcy filing, such transfer may be recoverable by the bankruptcy estate for the benefit of the estate under Sections 544, 547, or 548 of the Bankruptcy Code. To date, no complaints have been filed under any of these theories and no creditor extended credit to the Debtors prior to commencement of the case. To the extent any such claims exist, they will be analyzed for their potential value to the estate. These potential claims are specifically preserved for the benefit of the respective bankruptcy estates. Any recovery that is obtained will be obtained for the benefit of the estate.

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claims that Debtors are in arrears despite Debtors best efforts to reach an agreement with Ocwen. Debtors have these "missed" payments available.

<sup>2</sup> After evicting the tenant from Unit 1040, the tenant paid past due rent to prevent a judgment from issuing.

1           **D.     Existence, Likelihood and Possibility of Success of Non-Bankruptcy**  
2                           **Litigation**

3           The Debtors are not currently (and were not pre-petition) involved in any non-  
4 bankruptcy litigation. The total value of Debtors' real property assets is sufficient to pay-off their  
5 creditors, and the only creditor who was threatening a collection action pre-petition was the secured  
6 creditor of the Glendale Building who had noticed a trustee's sale. Debtors dispute many late charges  
7 and other penalties imposed upon them by this secured creditor, however, given that the Debtors lack  
8 liquid assets to finance a litigation against the secured creditor, the Debtors' possibility of success would  
9 be virtually non-existent.

10           **E.     Liquidation Analysis**

11           Under the "best interests" of creditors test set forth in section 1129(a)(7) of the  
12 Bankruptcy Code, the Bankruptcy Court may not confirm a plan of reorganization unless the  
13 plan provides each holder of a claim or interest who does not otherwise vote in favor of the  
14 plan with property of a value, as of the effective date of the plan, that is not less than the  
15 amount that such holder would receive or retain if the Debtors were liquidated under Chapter  
16 7 of the Bankruptcy Code. To demonstrate that the Plan satisfies the "best interests" of  
17 creditors test, the Debtors have prepared the following hypothetical Liquidation Analysis,  
18 which is based upon certain assumptions discussed in the Disclosure Statement and in the  
19 notes accompanying the Liquidation Analysis (the "Notes").

20           The Liquidation Analysis estimates potential Cash distributions to Holders of  
21 Allowed Claims and Interests in a hypothetical Chapter 7 liquidation of the Debtor's assets.  
22 Asset values discussed in the Liquidation Analysis may differ materially from values referred  
23 to in the Plan and Disclosure Statement.

24           In preparing the Liquidation Analysis, the Debtors estimated Allowed Claims based  
25 on a review of Claims listed on the Debtors' Schedules and Proofs of Claim Filed to date. In  
26 addition, the Liquidation Analysis includes estimates for Claims not currently asserted in the  
27 Chapter 11 Cases, but which could be asserted and Allowed in a Chapter 7 liquidation,  
28

1 including Administrative Claims, wind-down costs, trustee fees, tax liabilities, and certain  
2 lease and contract rejection damages Claims. To date, the Bankruptcy Court has not  
3 estimated or otherwise fixed the total amount of Allowed Claims used for purposes of  
4 preparing this Liquidation Analysis. For purposes of the Liquidation Analysis, the Debtors'  
5 estimate of Allowed Claims contained in the Liquidation Analysis references specific Claims  
6 presently filed in this matter. Therefore, the Debtors' estimate of Allowed Claims set forth  
7 in the Liquidation Analysis should not be relied on for any other purpose, including  
8 determining the value of any distribution to be made on account of Allowed Claims and  
9 Interests under the Plan. NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS  
10 IS INTENDED TO BE OR CONSTITUTES A CONCESSION OR ADMISSION OF THE  
11 DEBTORS. THE ACTUAL AMOUNT OF ALLOWED CLAIMS IN THE CHAPTER 11  
12 CASES COULD MATERIALLY DIFFER FROM THE ESTIMATED AMOUNTS SET  
13 FORTH IN THE LIQUIDATION ANALYSIS.

#### 14 **Conversion Date and Appointment of a Chapter 7 Trustee**

15 The Liquidation Analysis assumes conversion of the Debtors' Chapter 11 Case to  
16 Chapter 7 liquidation, as of the estimated effective date of the Chapter 11 Plan, which is  
17 estimated at August 9, 2018 (the "Conversion Date"). On the Conversion Date, it is assumed  
18 that the Bankruptcy Court would appoint a Chapter 7 trustee (the "Trustee") to oversee the  
19 liquidation of the Estate.

#### 20 **Primary Assets of the Debtors**

21 The Liquidation Analysis assumes a liquidation of all of the Debtors' assets. The  
22 Debtors have four liquidateable assets. The Charter Oak Home is not liquidate-able through  
23 a Chapter 7 because it is their primary residence and equity does not exceed the statutory  
24 homestead exemption of \$150,000. The Glendale Building is not liquidate-able and would  
25 have to be abandoned because the tax exposure exceeds the equity in the property.

26 The Debtor's four liquidate-able assets are the: i) Hatcher Building; and, ii-iv) Acoma  
27 Condos. The Hatcher building is believed to be worth \$315,000 with approximately  
28

1 \$50,000.00 of equity *before* expected real estate commissions (\$18,900), closing costs  
2 (\$1,500) and other repair expenses (\$3,000) believed to be \$23,400.

3 The Acoma Condos are all believed to be worth approximately \$180,000 with  
4 approximately \$44,000 of equity, a piece, *before* expected respective real estate commissions  
5 (\$10,800), closing costs (\$1,500) and repairs (\$3,000) of \$15,300, or a total of \$28,700 each.

6 There are no other material saleable assets, and, as such, no value is attributed to them  
7 in the Liquidation Analysis. The Liquidation Analysis does not attribute any value to the  
8 Debtors' intangible assets as none are believed to exist.

### 9 **Liquidation of Assets**

10 The Liquidation Analysis assumes that the Trustee would make a finding that the  
11 Hatcher Building and the Acoma Condos each have one (1) secured creditor, respectively.

### 12 **Liquidation Analysis Waterfall and Recovery Ranges**

13 The Liquidation Analysis assumes that there would be no new leases in the Acoma  
14 Condos, that the Hatcher Building would be sold subject to existing leases, and that these  
15 assets would be priced to sell quickly in a summertime market as opposed to the Chapter 7  
16 Trustee coming out of pocket to pay post-petition installment payments while awaiting top  
17 of the market offers, and further assumes that Unit 1040 will not close on or around June  
18 16, 2018 as expected, but instead on or after the Conversion Date. The Trustee would have  
19 proceeds in excess of the total unsecured claims of \$55,363.59 (after brokerage fees, closing  
20 costs, and other sale expenses) and additional Trustee fees of 10%, or \$5,536.36 (the  
21 "Liquidation Costs"), and such additional Administrative and Priority Claims that are  
22 estimated to be incurred in a Chapter 7 liquidation. Prior to additional Administrative and  
23 Priority Claims, net Liquidation Proceeds would equal \$141,753.64, to be allocated to  
24 Creditors and Interest Holders in accordance with the priorities set forth in section 726 of the  
25 Bankruptcy Code.

## DEBTORS' LIQUIDATION ANALYSIS

|  | Value                | Claim<br>Amt. | Recovery  |
|--|----------------------|---------------|-----------|
| <b>1 The Building Value</b>                                  | \$ 710,000.00        |               |           |
| a. Unit 1040   |                      |               |           |
| b. Unit 1052   |                      |               |           |
| c. Unit 2093   |                      |               |           |
| d. Hatcher Building  |                      |               |           |
| <b>2 Cash and Equivalents<sup>3</sup></b>                    | <u>\$ 16,987.73</u>  |               | <u>0%</u> |
| <b>Gross Liquidation Proceeds Available for Distribution</b> | <b>\$ 726,987.73</b> |               |           |
| <b>3. Priority Claims</b>                                    |                      |               |           |
| a. Wage Claims   |                      |               |           |
| <b>4. Priority Tax Claims</b>                                |                      |               |           |
| a. Arizona Department of Revenue                             |                      |               |           |
| <b>5. Liquidation Costs</b>                                  |                      |               |           |
| a. Winding Down Fees   | -0-                  |               |           |
| b. Trustee Fees  |                      |               |           |
| <b>6. Claims</b>   |                      |               |           |
| a. Administrative Claims                                     |                      |               |           |
| b. DIP Claims  |                      |               |           |
| c. 1 <sup>st</sup> Liholder Debt                             |                      |               |           |
| i. Unit 1040   |                      |               |           |
| ii. Unit 1052  |                      |               |           |
| iii. Unit 2093   |                      |               |           |
| iv. Hatcher Building   |                      |               |           |
| <b>9. Proceeds Available to Admin and Priority Claims</b>    |                      |               |           |
| <b>10. Total Unsecured Claims</b>                            |                      |               |           |
| Sub Total  |                      |               |           |
| <b>Net Liquidation Proceeds Available to Secured</b>         |                      |               |           |
| <b>12</b>  |                      |               |           |
| <b>13. Interests</b>   |                      |               |           |
| <b>11 Interests</b>  |                      |               | 0%        |

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<sup>3</sup> Amount held in DIP Account is subordinate to Assignment of Rent clause for the respective secured creditors.

1 **Specific Notes to the Asset and Liability Assumptions Contained in the Liquidation**  
2 **Analysis:**

3 The Liquidation Analysis refers to certain categories of assets and liabilities. The  
4 numerical designation below corresponds to each line item with a specific note.

5 **The Hatcher Building and Acoma Condos' Value**

6 The Liquidation Analysis assumes that the Trustee will price the Hatcher Building  
7 and Acoma Condos to sell quickly, and not to extract top of the market value at risk of  
8 carrying cost exposure. As stated above, it is assumed that the trustee would not attempt to  
9 sell the Charter Oak Home due to the homestead exemption (and because there is minimal to  
10 no equity) and will abandon the Glendale Building because of the corresponding tax  
11 liabilities.

12 **Cash and Equivalents**

13 Cash consists of cash balances as of June 9, 2018, including: (a) unrestricted cash in  
14 any of the Debtor's bank, operating, and reserve accounts; (b) restricted cash in any of the  
15 Debtor's bank, operating and reserve accounts. Generally, the Liquidation Analysis assumes  
16 that the Trustee assumes and assigns contracts related to the lease agreement with the tenants,  
17 and further assumes and assigns individual cash flow positive for value; thus, the Liquidation  
18 Analysis assumes that the Trustee will recover any Cash deposits held on account of such  
19 contracts upon assumption. Conversely, the Liquidation Analysis assumes that the  
20 applicable counterparties, each respective first lien holders, will request the proceeds of cash  
21 held in such account pursuant to Assignment of Rents clause(s) in each respective Deed of  
22 Trust. Therefore, it is assumed that such Cash is not recoverable. In addition, other than the  
23 reference to potential preference recoveries referred to above, the Liquidation Analysis does  
24 not assume any recoveries for any other avoidance actions.

25 **Liquidation Costs**

26 **Wind-Down Costs**

27 It is estimated there would be approximately \$109,500 of assets to distribute to  
28 creditors with a remainder owed to the debtors, the Chapter 7 Trustee would collect its 10%

1 fee, engage real estate and other professionals to effectuate the sale of the respective  
2 properties (described above), and file a Report of Distribution with each secured creditor  
3 (except for Charter Oak and the Glendale Building) paid in full and each unsecured creditor  
4 being paid in full with a remainder to be allocated back to the Debtors.

5 Otherwise, wind-down costs could consist of the regularly occurring general and  
6 administrative costs required to make the appropriate filings with governmental entities  
7 during the liquidation process, and the costs of any professionals the Trustee employs to  
8 assist with the liquidation process, including attorneys, accountants and other advisors.

### 9 **Trustee Fees**

10 Section 326 of the Bankruptcy Code provides for reasonable compensation for the  
11 Trustee's rendered services. As stated above, the Debtors estimate that liquidation of the  
12 Estate will yield \$55,363.59 for unsecured creditors and, therefore, \$5,536.36 to the Chapter  
13 7 Trustee. All secured creditors would exercise their remedies under their respective liens or  
14 be paid in full upon sale of each respective property.

### 15 **Claims**

#### 16 **DIP Claims**

17 There are no DIP Claims. Moneys held in the DIP account is money collected from  
18 rent proceeds and will likely be claimed by the first lien holders pursuant the Assignment of  
19 Rents clause contained in their respective deeds of trust upon liquidation. Any additional  
20 monies in the DIP account would come from Roland Silver's Home Depot employment  
21 which would be below the Chapter 7 exemption amount or would be social security payments  
22 which are also exempt.

#### 23 **Administrative and Priority Claims**

24 Administrative and Priority Claims consist of: (a) Claims entitled to administrative  
25 expense priority under section 503 of the Bankruptcy Code and (c) Claims entitled to priority  
26 under section 507 of the Bankruptcy Code. Because the Debtor's post-petition payables  
27 primarily relate to the rental operation of its properties, the Liquidation Analysis assumes  
28 that such payables will be paid in the ordinary course by the respective senior lien holders.



1 Claims arising from the post-conversion rejection of contracts that were assumed during the  
2 Chapter 11 Case or entered into post-petition are also included in this category.

3 **First -Lien Debt**

4 Secured Claims consists of the holders of each respective first position Deed of Trust  
5 as described above.

6 The Liquidation Analysis assumes that Allowed First Lien Debt Claims would be a  
7 fully secured claim pursuant to section 506(a) and (d). After abandonment by the Trustee of  
8 the Glendale Building the First Lien Debt Claim would be properly satisfied in a foreclosure  
9 proceeding (the First Lien Holder would not be liable for tax penalties as the Debtors would),  
10 pursuant to A.R.S. Section 33-801 et.seq. The Charter Oak Home would be abandoned and  
11 would continue to receive its monthly installment payments. The Hatcher Building and  
12 Acoma Condos would be paid in full through the sale of each respective property.

13 Thus, all secured claims would be satisfied in full.

14 **Unsecured Claims**

15 The Liquidation Analysis assumes that the Trustee would distribute any Liquidation  
16 Proceeds to unsecured claimants, paying each in full.

17 **Interests**

18 There would be a surplus of funds and Debtors would receive \$86,390.05 after all  
19 claims are fully administered.

20 **E. Conclusion**

21 The Debtors intend to continue their operations in a manner consistent with their Plan  
22 to continue to generate monthly revenue income with the Hatcher Building and Acoma  
23 Condos being “break-even” against the monthly secured installment payments until the  
24 Hatcher Building and Acoma Condos are sold. Debtors will sell Charter Oak and become  
25 tenants at a different location that is cheaper than the monthly installment payment at  
26 Charter Oak thus preserving financial resources. Debtors will continue to manage the  
27 Glendale building with a profit of approximately \$6,500 per month, and with the expectation  
28 of additional future profit in the amounts of an additional approximately \$3,300 for the

vacant space in the Glendale The circumstances that so negatively affected the Debtors and caused them to seek protection under Chapter 11 of the Bankruptcy Code were not of their own making, but were the byproduct of a hostile tenant in their most valuable rental space who replaced a tenant of over 20 years. The Glendale Building, either through rental income or an ultimate sale, is their only shot at having retirement money. At the same time the community will benefit from the continued operations of Debtors' continued operations because Maricopa County only recently recovered from the foreclosure crisis and the community at large will benefit if the Debtors are able to avoid more foreclosures in the area and, over time, help to appreciate the real estate market by selling the Hatcher Building and Acoma Condos for negotiated fair market prices. Thus, the Debtors believe the Plan is in the best interest of all creditors as the Plan is fully funded and will yield a more positive impact on the community than if the case were converted to a Chapter 7

## **V. DEBTORS' REVENUE FLOW**

The Revenue and Expense Flow estimates potential Cash accumulated, distributed to Holders of Allowed Claims and Interests for the Debtor's Chapter 11 Plan. The cash accumulated is derived from current rental income from Debtors' Glendale Building tenants (Acoma Condo and Hatcher Building tenants are about "break even" and the Plan requires liquidation of these assets), in the cumulative amount of \$15,078.00, with an expected increase to \$18,856.25 when the Glendale Building is 100% occupied. Other current rents are: 1) \$0 for Charter Oak; 2) \$0 for Unit 1040; 3) \$2,430 for the Hatcher Building; 4) \$950 for Unit 2093; and, 5) \$945 for Unit 1052. Distributions to the First Secured Lien Holders, post-petition are: 1) \$8,932.86 for the Glendale Building; 2) \$884.82 to Unit 1040; 3) \$4,460.12 to Charter Oak; 4) \$904.69 to Unit 1052; 5) \$893.13 to Unit 2093; and, 6) \$2,522.

1 to the Hatcher Building. This leaves a net balance of \$805.38 per month.<sup>4</sup> Post-petition  
2 property taxes are paid by the secured creditors through impound accounts.<sup>5</sup>

3 Based upon a review of Claims listed on the Debtors' Schedules and Proofs of Claim  
4 filed to date, arrearages to be paid over the life of the Plan are approximately \$55,493.10 for  
5 the Glendale Building; \$938.35 in priority taxes; \$12,850 in priority wages; and, \$42,513.59  
6 in non-priority unsecured.

## 7 **VI. SIGNIFICANT EVENTS DURING THE CHAPTER 11 CASE**

### 8 **A. Administrative Proceedings**

9 The Debtors filed their Petition for Relief under Chapter 11 on July 5, 2017, and a first  
10 meeting of creditors was held on August 15, 2017.

### 11 **B. Retention of Professionals**

12 The Debtors retained the Law Offices Kyle A. Kinney, PLLC (the "Kinney Firm") to  
13 act as its bankruptcy counsel. The Court has signed an Order approving the retention of the  
14 Kinney Firm as of this date to be effective as of the Petition Date. The Debtors retained  
15 attorney Cynthia L. Johnson (the "Johnson Firm") to act as its special counsel for the limited  
16 purpose of evicting a tenant from Unit 1040 in the Scottsdale City Court. The Court signed  
17 an Order approving the retention of the Johnson Firm and the Johnson Firm's representation  
18 has concluded. The Debtors retained CPA Joel Ruben to assist them in the preparation of  
19 their monthly operating report, tax and other financial matters. An application for the  
20 employment and retention of Joel Ruben remains pending but Debtors anticipate the  
21 Application to be granted. They Court approved the retention of real estate sales person  
22 Clayton Breeden to act as the Silver's real estate sales person to sell the Acoma Condos.  
23 Debtors anticipate retaining Mr. Breeden to sell Charter Oak. Finally, Debtors anticipate  
24 hiring a to be determined real estate sales person or brokerage with experience in commercial  
25

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26 <sup>4</sup> Unit 1040 is in escrow with a pending close date of June 16, 2018. Assuming escrow  
closes, there will not be any further post-petition payments made for Unit 1040.

27 <sup>5</sup> For the Glendale Building, loan servicer Ocwen has allowed property taxes to go  
28 delinquent but it is assumed that those will be paid when Ocwen accepts Debtors' monthly  
installment payments as required.

1 real estate to sell the Hatcher Building.

2 **C. Appointment of Unsecured Creditors Committee**

3 The United States Trustee's Office filed a statement stating that, despite its efforts to  
4 contact unsecured creditors, it was unable to appoint a Committee of Unsecured Creditors.

5 **D. Setting of Claims Bar Date**

6 The Court has not set a bar date for the filing of claims in this case.

7 **E. Operating Reports**

8 The Debtor's monthly operating reports are current and copies can be obtained from  
9 the Court's electronic docket.

10 **F. Stay Relief Motion**

11 To date, Ocwen has filed a Stay Relief Motion for the Glendale Building. Debtors  
12 have opposed the Motion and a hearing is set for Tuesday, June 19, 2018 at 2 p.m.

13 **G. Plan of Reorganization**

14 Together with this Disclosure, Debtors have filed its First Amended Plan of  
15 Reorganization.

16 **VII. DESCRIPTION OF ASSETS AND LIABILITIES OF THE DEBTORS**

17 **A. Assets**

18 The values ascribed to the Debtors' assets below are based on the Debtors' best  
19 estimate and other factors such as the purchase price, comparable sales, and tax  
20 assessments.

21 1. Real Estate – To be determined by this Court at the Confirmation  
22 hearing.

23 2. Bank Accounts – Wells Fargo (D.I.P. Account) – 63,775.45 as of  
24 June 1, 2018 Disclosure Statement.

25 **3. Lease-holds:**

26 a. Glendale Building Lease 1: \$13,132.00 per month.

27 b. Glendale Building Lease 2: \$1,948.18  
28

- c. Hatcher Building Lease 1: \$750
- d. Hatcher Building Lease 2: \$500
- e. Hatcher Building Lease 3: \$500
- f. Hatcher Building Lease 4: \$680
- g. Unit 1052 Lease: \$945
- h. Unit 2093 Lease: \$950

**B. Liabilities**

The following is an overview of the Debtors' known liabilities/schedule of claims.

**1. Administrative Claims**

- a. Class 1-A consists of Allowed Priority Claims under 11 U.S.C. § 503 and § 507(a)(2) – administrative priority claims. The estimated amounts owed are as follows: 1) \$23,500.00 to the Kinney Firm; \$12,000.00 to Joel Reuben; \$500.00 to Cynthia L. Johnson, P.C. Clayton Breeden's claim has not yet been realized as Unit 1040 has not closed escrow.
- b. Class 1-B consists of Allowed Priority Claims under 11 U.S.C. § 507(a)(4) – commission claims. It is believed the sole Claimant in this class, Rein & Grossoehme, will agree to be paid, in full, in cash, in equal monthly installments over a six month period with the first payment to be made on the Effective Date. The total claim according to the proof of claim is \$12,850.00.
- c. Class 1-C consists of Allowed Priority Claims under 11 U.S.C. § 507(a)(8) – tax Claims which are not otherwise treated as secured claims herein. The sole claimant in this class is the Arizona Department of Revenue and, according to the proof of claim, the total amount is \$938.35.

1                   **2.     Secured Claims**

- 2                   a.     Class 1-A consists of a Secured Claim under 11 U.S.C. §506(a)
- 3                             of which Debtor's schedules reflects US bank via Ocwen as the
- 4                             secured creditor with a first position lien deed of trust on the
- 5                             Glendale Building. The debt associated with this claim,
- 6                             according to the proof of claim is \$1,151,926.50.
- 7                   b.     Class 1-B consists of a Secured Claim under 11 U.S.C. §506(a)
- 8                             of which Debtor's schedules reflects US bank via Nationstar as
- 9                             the secured creditor with a first position lien deed of trust on the
- 10                            Unit 1040. The debt associated with this claim, according to the
- 11                            proof of claim is \$136,931.07.
- 12                   c.     Class 1-C consists of a Secured Claim under 11 U.S.C. §506(a)
- 13                             of which Debtor's schedules reflects Deutsche via Ocwen as the
- 14                             secured creditor with a first position lien deed of trust on Charter
- 15                             Oak. The debt associated with this claim, according to the proof
- 16                             of claim is \$934,310.07.
- 17                   d.     Class 1-D consists of a Secured Claim under 11 U.S.C. §506(a)
- 18                             of which Debtor's schedules reflects Wells Fargo via Ocwen as
- 19                             the secured creditor with a first position lien deed of trust on
- 20                             Unit 1052. The debt associated with this claim, according to the
- 21                             proof of claim is \$136,573.35.
- 22                   e.     Class 1-E consists of a Secured Claim under 11 U.S.C. §506(a)
- 23                             of which Debtor's schedules reflects Wells Fargo via Ocwen as
- 24                             the secured creditor with a first position lien deed of trust on
- 25                             Unit 2093. The debt associated with this claim, according to the
- 26                             proof of claim is \$136,696.05.
- 27                   f.     Class 1-F consists of a Secured Claim under 11 U.S.C. §506(a)
- 28                             of which Debtor's schedules reflects Greenpoint Mortgage

Funding, Inc. via Capital One as the secured creditor with a first position lien deed of trust on the Hatcher Building. The debt associated with this claim, according to the proof of claim is \$267,511.59.

- g. Class 1-G consists of a Secured Claim under 11 U.S.C. §506(a) of which Debtor's schedules list Nissan-Infiniti LT as the secured creditor with a lien on the 2017 Rogue vehicle. The debt associated with this claim, according to the proof of claim, is \$16,350.94.

### **3. Unsecured Claims**

- a. According to the proofs of claim, the following are the unsecured creditors that will be paid, in full, through the plan:

- i. Nissan - \$2,376;
- ii. Discover Bank - \$790.18
- iii. Arizona Department of Revenue - \$80.02
- iv. Wells Fargo Bank, NA - \$3,797.70
- v. American Express Bank, FSB - \$690.28
- vi. American Express Bank, FSB - \$3,005.04
- vii. Compass Bank - \$1,283.37
- viii. Rein & Grosseohme - \$15,904.89
- ix. Synchrony Bank - \$1,660.52
- x. Synchrony Bank - \$5,078.83
- xi. Comenity Capital Bank/Paypal Credit - \$1,834.05
- xii. Wells Fargo Bank, NA - \$8,388.71<sup>6</sup>

### **C. Administrative Expenses**

The Debtors' administrative expenses consist of the fees and costs of attorneys and

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<sup>6</sup>The actual amount of SWBFC's unsecured claim, for purposes of plan treatment, is \$32,099.53.

1 other professionals necessary to the Debtors' operations, bankruptcy cases, and plan of  
2 reorganization. The fees and costs of these professionals will not be precisely known until  
3 the Bankruptcy Case is completed. However, as set forth below, the Debtors' professionals  
4 anticipate that either (a) the retainers they presently have will be insufficient to cover the  
5 services they have rendered, and will render, in the Bankruptcy Case, or (b) for those  
6 professionals that do not have retainers and will be paid by some other manner, their  
7 projected anticipated fees and costs for their services will be commensurate with their  
8 historical fees and costs incurred by the Debtors.

9       The Debtors' current bankruptcy counsel is the Kinney Firm. Prior to filing the  
10 petition, the Kinney Firm, respectively took possession of a retainer in the amount of  
11 \$24,395.00, of which \$12,800.00 was billed pre-petition and \$1,717.00 was used to pay for  
12 this Chapter 11 filing fee, leaving a balance of \$9,878.00. The Kinney Firm anticipates its  
13 fees for services already rendered and continued work will total approximately \$20,000.

14       CPA Joel Reuben did not receive a pre-petition retainer. Mr. Reuben estimates that  
15 he has rendered approximately \$10,000.00 of services to date, and anticipates an additional  
16 \$2,000.00 of ongoing services.

17       The Law Office of Cynthia L. Johnson, P.C. estimates that that she has rendered  
18 approximately \$500.00 in services pertaining to the eviction action.

19       Real estate sales person Clayton Breeden has agreed to sell the Acoma Condos for a  
20 2.5% commission on the total sales price. Mr. Breeden anticipates that amount to be \$4,675  
21 for Unit 1040 and anticipates a similar amount for Unit 1052 and Unit 2093.

## 22 **VIII. PLAN SUMMARY**

23       The following statements concerning the Plan are merely a summary of the Plan and  
24 are not complete. The statements are qualified entirely by express reference to the Plan.  
25 Creditors are urged to consult with counsel or each other in order to understand the Plan fully.  
26 The Plan is complete, inasmuch as it proposes a legally binding agreement by the Debtors,  
27 and an intelligent judgment cannot be made without reading it in full. Most of the creditors  
28 of the Debtors are impaired under the terms of this Plan. One Secured Creditor is impaired



1 because they will be subjected to different treatment than they had originally contracted for  
2 with the Debtor. The sole wage/commission claim is impaired. The Unsecured Creditors will  
3 be impaired because they will be subject to different treatment than they originally contracted  
4 for. Thus, the Debtors will have numerous classes with the right to vote on their Plan of  
5 reorganization, as set forth herein.

6 **IX. TREATMENT OF CLASSES.**

7 **A. Class 1: Priority Claims**

8 **1. Class 1-A: Administrative Claims**

9 This Class consists of Allowed Priority Claims under 11 U.S.C. § 503 and §  
10 507(a)(2) – administrative priority claims. Unless Claimants holding Claims in this  
11 Class agree to an alternative form of treatment, the Allowed Claims of Class 1-A shall  
12 be paid in full, in cash, on or before the Effective Date or as the same are Allowed and  
13 ordered paid by the Court. Any Class 1-A Claim not allowed as of the Effective Date  
14 shall be paid as soon thereafter as it is allowed by the Court according to the terms of  
15 this Class. This class is not impaired.

16 **2. Class 1-B: Commission Claims**

17 This Class 1-B consists of Allowed Priority Claims under 11 U.S.C. § 507(a)(4)  
18 – commission claims. As provided in 11 U.S.C. § 1129(a)(9)(B), unless Claimants  
19 holding Claims in this Class agree to an alternative form of treatment, the Allowed  
20 Priority Claims of Class 1-B shall be paid in full, in cash, on or before the Effective  
21 Date. It is believed the sole Claimant, Rein & Grossoehme, in this class will agree to  
22 be paid, in full, in cash, in equal monthly installments over a six month period with the  
23 first payment to be made on the Effective Date. The total amount of the claim is  
24 \$12,850.00. Any Class 1-B Claim not allowed as of the Effective Date shall be paid as  
25 soon thereafter as they are allowed by the Court according to the terms of this Class.  
26 This class is impaired.

27 **3. Class 1-C: Tax Claims**

28 This Class consists of Allowed Priority Claims under 11 U.S.C. § 507(a)(8) –

1 tax Claims which are not otherwise treated as secured claims herein. The sole claimant  
2 in this class is the Arizona Department of Revenue for the amount of \$938.35. As  
3 provided in 11 U.S.C. § 1129(a)(9)(C), unless Claimants holding Claims in this Class  
4 agree to an alternative form of treatment, the Allowed Priority Claims of Class 1-C  
5 shall be paid in full, in cash, on or before the Effective Date, or, at the Debtor's option,  
6 such Allowed Claims shall be paid, on account of such Allowed Claim, deferred cash  
7 payments, over a period not exceeding seven years after the date of assessment of such  
8 Claim, of a value, as of the Effective Date of the Plan, equal to the allowed amount of  
9 such Claim. Any Class 1--C Claims not allowed as of the Effective Date shall be paid  
10 as soon thereafter as they are allowed by the Court according to the terms of this Class.  
11 This class is not impaired.

12 **B. Class 2: Secured Claims**

13 **1. Class 2-A – Allowed Secured Claims of US Bank via Ocwen for the**  
14 **Glendale Building**

15 This Class consists of the Allowed Secured Claim of US Bank via Ocwen for  
16 the Glendale Building \$1,151,926.50. As set forth herein, this is an impaired class. The  
17 Allowed Secured Claim arises out of an interest only promissory note with a balloon  
18 payment due on the May 1, 2022 maturity date. The pre-petition deficiencies as stated  
19 in US Bank's Proof of Claim shall be added to the principal balance of the note. US  
20 Bank shall apply the approximately \$50,000 held in suspense toward the principal  
21 balance, if not already applied. US Bank shall have an allowed secured claim for this  
22 amount. The Debtor will make interest only post-petition monthly installment  
23 payments to US Bank via Ocwen (based upon the new principal balance calculated by  
24 adding the pre-petition arrears stated in the Proof of Claim to the principal balance)  
25 and a balloon payment on the full principal amount no later than May 1, 2022 in full,  
26 as stated in the note. The first interest only payment shall be made on the Effective  
27 Date with monthly payments made thereafter until the maturity date. The interest rate  
28 shall be the interest rate set-forth in the promissory note. There shall be no pre-payment

penalty for pre-payments of principal. Payments shall be applied first to interest, then to principal of the Allowed Secured Claim, and then to the un-matured principal. Debtor shall continue to make all post-petition payments through the maturity date or until paid in full.

**2. Class 2-B – Allowed Secured Claims of US Bank via Nationstar for Unit 1040**

This Class consists of the Allowed Secured Claim of US Bank via Nationstar for Unit 1040 in the amount of \$136,931.07. As set forth herein, this is an impaired class. The Allowed Secured Claim arises out of an installment payment due July 1, 2017 under a promissory note. It is believed that the installment payment was made as a post-petition payment for July, 2017 (within the grace period allowed under the terms of the promissory note) and that the arrearage is satisfied. To the extent that the arrearage is not satisfied, the Debtor will pay the claim, in full, within 90 days of the Effective Date with interest at the rate as set-forth in the promissory note. Debtor shall continue to make all post-petition installment payments through the maturity date or until paid in full.

**3. Class 2-C – Allowed Secured Claims of Deutsche via Ocwen for Charter Oak**

This Class consists of the Allowed Secured Claim of Deutsche via Ocwen for Charter Oak in the amount of \$934,310.07. As set forth herein, this is an impaired class. The Allowed Secured Claim arises out of missed installment payments due under a modified promissory note. The Debtors will liquidate Charter Oak as soon as practicable, but in any event no later than 12 months from the Effective Date provided that Debtors receive an offer that will satisfy the Allowed Secured Claim, in full, or Deutsche accepts an amount less than the Allowed Secured Claim in the form of a short sale. In the event that Debtors cannot liquidate Charter Oak within 12 months of the Effective Date, Debtors will pay the pre-petition arrearages, in full, within 13 months of the Effective Date or surrender Charter Oak thus allowing Deutsche to enforce its non-judicial foreclosure rights. The interest rate shall be the interest rate

1 set-forth in the promissory note. There shall be no pre-payment penalty. Debtor shall  
2 continue to make post-petition installment payments as they become due under the  
3 promissory note. The Allowed Secured Claim shall be paid, in full, at the earlier of:  
4 1) the close of escrow; or, 2) the note maturity date.

5 **4. Class 2-D – Allowed Secured Claims of Wells Fargo via Ocwen for**  
6 **Unit 1052**

7 This Class consists of the Allowed Secured Claim of Wells Fargo via Ocwen  
8 for Unit 1052, in the amount of \$136,573.35. As set forth herein, this is an impaired  
9 class. The Allowed Secured Claim arises out of an installment payment due July 1,  
10 2017 under a promissory note. It is believed that the installment payment was made as  
11 a post-petition payment for July, 2017 (within the grace period allowed under the terms  
12 of the promissory note) and that the arrearage is satisfied. Debtors will liquidate Unit  
13 1052 as soon as practicable, with the Allowed Secured Claim to be paid, in full, upon  
14 the close of escrow. Debtor shall continue to make all future post-petition installment  
15 payments as they become due under the promissory note through the earlier of: 1) sale  
16 of Unit 1052; or, 2) the note maturity date.

17 **5. Class 2-E – Allowed Secured Claims of Wells Fargo via Ocwen for**  
18 **Unit 2093**

19 This Class consists of the Allowed Secured Claim of Wells Fargo via Ocwen  
20 for Unit 2093, in the amount of \$136,696.05. As set forth herein, this is an impaired  
21 class. The Allowed Secured Claim arises out of an installment payment due July 1,  
22 2017 under a promissory note. It is believed that the installment payment was made as  
23 a post-petition payment for July, 2017 (within the grace period allowed under the terms  
24 of the promissory note) and that the arrearage is satisfied. Debtors will liquidate Unit  
25 2093 as soon as practicable, with the Allowed Secured Claim to be paid, in full, upon  
26 the close of escrow. Debtor shall continue to make all future post-petition installment  
27 payments as they become due under the promissory note through the earlier of: 1) sale  
28 of Unit 2093; or, 2) the note maturity date.

1                   **6. Class 2-F – Allowed Secured Claims of Greenpoint Mortgage**  
2                   **Funding, Inc. via Capital One for the Hatcher Building**

3                   This Class consists of the Allowed Secured Claim of Greenpoint Mortgage  
4                   Funding, Inc. via Capital One for the Hatcher Building, in the amount of \$267,511.59.  
5                   As set forth herein, this is not an impaired class. There is no pre-petition arrearage.  
6                   The terms of the subject promissory note secured by a deed of trust will remain  
7                   unchanged and Debtors shall continue to make all post-petition installment payments.  
8                   Debtors will liquidate the Hatcher Building as soon as practicable and the Allowed  
9                   Secured Claim shall be paid, in full, at the earlier of: 1) the close of escrow; or, 2) the  
10                  note maturity date.

11                   **7. Class 2-G – Allowed Secured Claims of Nissan-Infiniti LT for 2017**  
12                   **Rogue**

13                  This Class consists of the Allowed Secured Claim of Nissan-Infiniti LT for a  
14                  2017 Rogue vehicle, in the amount of \$16,350.94. As set forth herein, this is not an  
15                  impaired class. The Allowed Secured Claim arises out of a vehicle lease. There was  
16                  not an arrearage as of the petition date. Debtor reaffirms the terms of the lease  
17                  agreement.

18                  **C. Class 3: Unsecured Claims**

19                   **1. Class 3-A: Allowed Unsecured Claim of RGCRE**

20                  This Class consists of the Allowed Unsecured Claim of RGCRE which shall be  
21                  equal to the difference between RGCRE's total claim and the amount paid in Class 1-  
22                  B above, for a total amount of \$15,904.89 within 36 months of the Effective Date.

23                   **2. Class 3-B: Allowed Unsecured Claims of Creditor Nissan-Infiniti LT**  
24                   **for 2014 Sentra**

25                  This class consists of the Allowed Unsecured Claim of Nissan-Infiniti LT for  
26                  that certain 2014 Sentra, in the amount of \$2,376.00. This claim was filed as a secured  
27                  claim, however, the 2014 Sentra was abandoned by the Debtors and surrendered to the  
28                  creditor. Thus, the claim shall be treated as an unsecured claim and paid within 36  
29                  months of the Effective Date.

1                                   **3. Treatment of Classes 3-A, 3-B and 3-C Under This Plan**

2           Notwithstanding the fact that Class 3-A and Class 3-B are distinctly identified  
3 in this Plan as separate classes, for the purposes of this Plan, Class 3-A, Class 3-B and  
4 Class 3-C (collectively, “Class 3”) are treated the same under the Plan. All secured  
5 creditors and the amounts due to them each, respectively, as listed in Section VII above  
6 shall be paid, in full, within 36 months of the Effective Date.

7           The unsecured creditors shall be paid a pro rata share of the following amounts,  
8 notwithstanding the necessary withholdings for the Debtors’ ordinary course of  
9 business: the liquidation value of the Acoma Condos, Charter Oak and the Hatcher  
10 Building (calculated by the sales price minus: 1) each respective Allowed Secured  
11 Claim; 2) any outstanding property taxes; 3) real estate commission fees; 4) closing  
12 costs; and, 5) other costs of liquidation); any balances to be paid through the excess  
13 rental revenues acquired from the leases on the Glendale Building but in no event later  
14 than 36 months from the Effective Date.

15                                   **D. Class 4: Interest Holders**

16           The Interest Holders in the Debtor will retain their interests in consideration of the  
17 New Value they contribute to the Reorganized Debtor pursuant to this Plan. The  
18 amount of the New Value will consist of (a) the amount necessary to pay all Class 1  
19 Allowed Priority Claims as set forth above; (b) the amount necessary to fund the  
20 Interest Reserve Account as required by the treatment of Class 2-A and Class 2-B  
21 Claimants, above; and (c) the Unsecured Distribution Amount.

1 **X. MEANS FOR EXECUTING THE PLAN.**

2 **A. Liquidation and Property Management**

3 The Plan will be executed through the liquidation of the Acoma Condos, the Hatcher  
4 Building and Charter Oak. The liquidation of these 5 properties will provide sufficient funds  
5 to pay off the administrative expenses, a good chunk of the unsecured creditors, each  
6 respective lien holder, and allow the Debtors enough financial flexibility to lead a modest life.  
7 Liquidation of Charter Oak will allow the Debtors to reduce their personal living expenses  
8 nearly in half. The Plan will also be executed by continuing to lease the Glendale Building.  
9 Arlene Silver shall continue to manage the Glendale Building and will receive assistance from  
10 the Debtors' son, Scott Silver for necessary repairs or manual labor associated with the  
11 management of the Glendale Building. The Reorganized Debtors will attempt to the one  
12 vacant end cap space in the Glendale Building to a new tenant (or tenants) to help make the  
13 payments required by the Plan.

14 Debtors are currently finalizing repairs to damages caused by a former tenant that will  
15 make this end cap space marketable once again. Debtors are hopeful that when the Debtors'  
16 Plan is confirmed, that these concerns will be alleviated. Currently, the Glendale Building  
17 produces revenue approximately \$5,000.00 over total cost (installment payments and  
18 maintenance). Once the end cap space is leased, this figure will jump to nearly \$9,000.00 and  
19 will allow the Debtors to aggressively pay down the pre-petition arrearages owed to the lien  
20 holder.

21 **B. Application of Post-Petition Payments**

22 Debtor's payments shall be made in absolute priority on the day they are received and  
23 are to post and apply on the same day to: First, principal; Second, interest; and Third, servicer  
24 fees. No payments shall be held in any suspense account. Any missed payments shall be  
25 applied correctly, not held in any suspense account. Any corporate advances shall be such as  
26 property taxes, attorney's fees, proofs of claim, BPO's or appraisals costs or forced place  
27 insurance shall be paid last.

1           **C.     Invalid Liens**

2           Any priority liens or liens of any sort found to be invalid or without authority, Debtors reserve  
3 the right to dispute in adversary proceedings, by motion or otherwise. Debtors believe that the lien  
4 imposed by the City of Mesa is invalid and without authority.

5           **D.     Liquidation of Estate Property**

6           The Debtors shall have the authority to retain such brokers, agents, counsel, or representatives  
7 as it deems necessary to liquidate assets of the Reorganized Debtor.

8           **E.     Management**

9           The Plan will be implemented by the retention of its existing management. The current interest  
10 holder will maintain current business operations as set forth above and in accordance with the terms  
11 of this Plan.

12          **F.     Disbursing Agent**

13          The Reorganized Debtors shall act as the Disbursing Agent under the Plan.

14          **G.     Documentation of Plan Implementation**

15          In the event any entity which possesses an Allowed Secured Claim or any other lien  
16 in any of the Debtor's property for which the Plan requires the execution of any documents  
17 to incorporate the terms of the Plan, fails to provide a release of its lien or execute the  
18 necessary documents to satisfy the requirements of the Plan, the Debtors may record a copy  
19 of this Plan or the Confirmation Order with the appropriate governmental agency and such  
20 recordation shall constitute lien release and creation of any necessary new liens to satisfy the  
21 terms of the Plan. If the Debtors deem advisable, it may obtain a further Order from the Court  
22 that may be recorded in order to implement the terms of the Plan.

23 **XI.    EFFECT OF CONFIRMATION.**

24          Except as otherwise provided in the Plan or the Confirmation Order, Confirmation acts  
25 as a Discharge, effective as of Confirmation, of any and all debts of the Debtors that arose  
26 any time before the entry of the Confirmation Order including, but not limited to, all principal  
27 and all interest accrued thereon, pursuant to § 1141(d)(1) of the Bankruptcy Code. The  
28



1 Discharge shall be effective as to each Claim, regardless of whether a Proof of Claim thereon  
2 was filed, whether the Claim is an Allowed Claim, or whether the Holder thereof votes to  
3 accept the Plan.

4 In addition, any pre-confirmation obligations of the Debtors dealt with in this Plan  
5 shall be considered New Obligations of the Debtor, and these New Obligations shall not be  
6 considered in default unless and until the Reorganized Debtors defaults on the New  
7 Obligations pursuant to the terms of the Plan. The New Obligations provided for in the Plan  
8 shall be in the place of, and completely substitute for, any pre-Confirmation obligations of  
9 the Debtor. Once the Plan is confirmed, the only obligations of the Debtors shall be such New  
10 Obligations as provided for under the Plan.

## 11 **XII. OBJECTIONS TO AND ESTIMATIONS OF CLAIMS.**

### 12 **A. Objections and Bar Date for Filing Objections.**

13 As soon as practicable, but in no event later than 120 days after the Effective Date,  
14 objections to Claims shall be filed with the Bankruptcy Court and served upon the holders of  
15 each of the Claims to which objections are made pursuant to the Bankruptcy Code and the  
16 Bankruptcy Rules. Objections filed after such date will be barred.

### 17 **B. Settlement of Claims.**

18 Settlement of any objection to a Claim not exceeding \$10,000 shall be permitted on  
19 the eleventh (11th) day after notice of the settlement has been provided to the Debtor, the  
20 Creditors, the settling party, and other persons specifically requesting such notice, and if on  
21 such date there is no written objection filed, such settlement shall be deemed approved. In the  
22 event of a written objection to the settlement, the settlement must be approved by the Court  
23 on notice to the objecting party.

### 24 **C. Estimation of Claims**

25 For purposes of making distributions provided for under the Plan, all Claims objected  
26 to shall be estimated by the Disbursing Agent at an amount equal to (i) the amount, if any,  
27 determined by the Court pursuant to § 502(c) of the Bankruptcy Code as an estimate for  
28 distribution purposes; (ii) an amount agreed to between the Debtors and the Claimant; or, (iii)

1 that amount set forth as an estimate in the Plan or Disclosure Statement. Notwithstanding  
2 anything herein to the contrary, no distributions shall be made on account of any Claim until  
3 such Claim is an Allowed Claim.

4 **D. Unclaimed Funds and Interest.**

5 Distribution to Claimants shall be mailed by the Reorganized Debtors to the Claimants  
6 at the address appearing on the master mailing matrix unless the Claimant provides the  
7 Reorganized Debtors with an alternative address. For a period of one (1) year from the date  
8 that a distribution was to be made by the disbursing agent but has gone uncollected by the  
9 Claimant, the disbursing agent shall retain any distributions otherwise distributable hereunder  
10 which remain unclaimed or as to which the disbursing agent has not received documents  
11 required pursuant to the Plan. Thereafter, the unclaimed funds shall be deposited in the  
12 appropriate distribution account for distribution to other Claimants entitled to participate in  
13 such respective fund.

14 **XIII. NON-ALLOWANCE OF PENALTIES AND FINES.**

15 No distribution shall be made under this Plan on account of, and no Allowed Claim,  
16 whether Secured, Unsecured, Administrative, or Priority, shall include any fine, penalty,  
17 exemplary or punitive damages, late charges, default interest or other monetary charges  
18 relating to or arising from any default or breach by the Debtor, and any Claim on account  
19 thereof shall be deemed Disallowed, whether or not an objection was filed to it.

20 **XIV. CLOSING OF CASE.**

21 Until these cases are officially closed, the Reorganized Debtors will be responsible for  
22 filing pre-and post-confirmation reports required by the United States Trustee and paying the  
23 quarterly post-confirmation fees of the United States Trustee, in cash, pursuant to 28 U.S.C.  
24 § 1930, as amended. Pursuant to 11 U.S.C. § 1129(a)(12), all fees payable under Section 1930  
25 of Title 28, as determined by the Court at the hearing on confirmation of the Plan, will be  
26 paid, in cash, on the Effective Date.

27 **XV. MODIFICATION OF THE PLAN.**

28 In addition to its modification rights under Section 1127 of the Bankruptcy Code, the

1 Debtors may amend or modify this Plan at any time prior to Confirmation without leave of  
2 the Court. The Debtors may propose amendments and/or modifications of this Plan at any  
3 time subsequent to Confirmation with leave of the Court and upon notice to Creditors. After  
4 Confirmation of the Plan, the Debtors may, with approval of the Court, as long as it does not  
5 materially or adversely affect the interests of Creditors, remedy any defect or omission or  
6 reconcile any inconsistencies of the Plan, or in the Confirmation Order, if any may be  
7 necessary to carry out the purposes and intent of this Plan.

## 8 **XVI. JURISDICTION OF THE COURT.**

9 The Court will retain jurisdiction until this Plan has been fully consummated for,  
10 including but not limited to, the following purposes:

11 1. The classification of the Claims of any Creditors and the re-examination of any  
12 Claims which have been allowed for the purposes of voting, and for the determination of such  
13 objections as may be filed to the Creditor's Claims. The failure by the Debtors to object to or  
14 examine any Claim for the purpose of voting shall not be deemed to be a waiver of the  
15 Debtor's rights to object to or to re-examine the Claim in whole or in part.

16 2. To determine any Claims which are disputed by the Debtor, whether such  
17 objections are filed before or after Confirmation, to estimate any Un-liquidated or Contingent  
18 Claims pursuant to 11 U.S.C. § 502(c)(1) upon request of the Debtors or any holder of a  
19 Contingent or Un-liquidated Claim, and to make determination on any objection to such  
20 Claim.

21 3. To determine all questions and disputes regarding title to the assets of the  
22 Estate, and determination of all causes of action, controversies, disputes or conflicts, whether  
23 or not subject to action pending as of the date of Confirmation, between the Debtors and any  
24 other party, including but not limited to, any rights of the Debtors to recover assets pursuant  
25 to the provisions of the Bankruptcy Code.

26 4. The correction of any defect, the curing of any omission or any reconciliation  
27 of any inconsistencies in this Plan, or the Confirmation Order, as may be necessary to carry  
28 out the purposes and intent of this Plan.

1           5.       The modification of this Plan after Confirmation, pursuant to the Bankruptcy  
2 Rules and the Bankruptcy Code.

3           6.       To enforce and interpret the terms and conditions of this Plan.

4           7.       The entry of an order, including injunctions, necessary to enforce the title,  
5 rights and powers of the Debtor, and to impose such limitations, restrictions, terms and  
6 conditions of such title, right and power that this Court may deem necessary.

7           8.       The entry of an order concluding and terminating this case.

8 **XVII. RETENTION AND ENFORCEMENT OF CLAIMS.**

9           Pursuant to § 1123(b)(3) of the Bankruptcy Code, the Reorganized Debtors shall retain  
10 and may enforce any and all claims of the Debtor, except those claims specifically waived  
11 herein. Any retained causes of action include, but are not limited to, all avoidance actions,  
12 fraudulent conveyance actions, preference actions, and other claims and causes of action of  
13 every kind and nature whatsoever, arising before the Effective Date which have not been  
14 resolved or disposed of prior to the Effective Date, whether or not such claims or causes of  
15 action are specifically identified in the Disclosure Statement.

16           Any recovery obtained from retained causes of action shall become an additional asset  
17 of the Debtor, unless otherwise ordered by the Court, and shall be available for distribution  
18 in accordance with the terms of this Plan.

19 **XVIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

20           Every contract not assumed specifically by this Plan is hereby rejected. Upon  
21 confirmation the month to month leas will expire and there will be no executory contracts  
22 and/or leases the Debtors intend to assume.

23           Claims under § 502(g) of the Code arising as a result of the rejection of executory  
24 contracts or unexpired leases shall be filed no later than 30 days after the Confirmation Date.  
25 Any such Claims not timely filed and served shall be disallowed.

26 **XIX. REVESTING.**

27           Except as provided for in the Plan or in the Confirmation Order, on the Effective Date  
28 the Reorganized Debtors shall be vested with all the property of the Estate free and clear of

1 all claims, liens, charges, and other interests of Creditors, arising prior to the Effective Date.  
2 Upon the Effective Date, the Reorganized Debtors shall operate their business free of any  
3 restrictions.

4 Dated August 6, 2018

5 **LAW OFFICES OF KYLE A. KINNEY, PLLC**

6  
7 By: /s/Kyle A. Kinney

8 Kyle Kinney Bar No. 027189

9 Attorney for Debtors

10 This is to certify that the foregoing was  
11 e-filed on this 6<sup>th</sup> day of August, 2018,  
12 in the United States Bankruptcy Court,  
13 COPY of the foregoing served via electronic  
14 Notification that same date on:

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Phoenix, AZ 85003-1706

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